

REMARKS

Reconsideration of this application and the rejection of claims 41-57 are respectfully requested. Applicants have attempted to address every objection and ground for rejection in the Office Action dated February 12, 2007 (Paper No. 20070129) and believe the application is now in condition for allowance. The claims have been amended to more clearly describe the present invention.

Claims 46-48 stand objected to due to the use of the abbreviation ABS. With this amendment, the full spelling of acrylonitrile butadiene styrene has been provided. Accordingly, the objection is respectfully traversed.

Claims 45-47, 49-51 and 56 stand rejected under 35 U.S.C. 112 as being indefinite. In claim 45, "softer" has been deleted. In claim 47, the antecedent basis for "ratio", "ABS layer" and "acrylic layer" has been corrected. In claim 49, it is now recited that the inner core has a variable thickness. In claim 50, the antecedent basis has been corrected for "underside". In claim 51, lines 1-2 have been revised to recite that there is a push-fit between the legs and sockets. In claim 56, antecedent basis for "filler" has been provided. Accordingly, the rejection based on Section 112 is respectfully traversed.

Claims 41-42 and 44-57 stand rejected under 35 U.S.C. 102(b) as being anticipated by Altman et al. (US 4,067,071). Altman discloses a retrofittable bathtub liner including a plastic liner body, corresponding wall liners, and a filler material. In Altman,

upon installation, the liner rests directly upon the bottom wall of the tube cavity (Col. 5, lines 39-43).

In contrast, claim 41 has been amended to recite, among other things, that the upper member is spaced from the lower member to define a gap therebetween, the gap being constructed and arranged to separate the upper member from the lower member, to receive the core, and to provide strength and rigidity to the article. Accordingly, in view of the lack of any disclosure in Altman of the subject matter now recited in claim 41, the Section 102 rejection based on Altman is respectfully traversed.

In addition to the above, Applicants respectfully disagree with the Examiners comments regarding the lack of patentability of claims 52-56 because they include some reference to the function of the structure. It is well settled, for example in reference to claims written under Section 112 par. 6, that claim elements can be written in the form of means plus a function they are providing. In view of the traversal of the Section 102 rejection on other grounds, Applicants are not admitting that claims 52-56 fall within Section 112/6, but are merely making a record that the Examiner's position is not well supported. These are not process limitations, but functional descriptions of the structure, which is clearly appropriate for apparatus claims.

Claim 43 stands rejected under 35 U.S.C. 103(a) as being obvious in view of a combination of Altman and Swanson (US 4,414,385). The arguments asserted above traversing Altman are reasserted here. Swanson is merely cited for the disclosure of

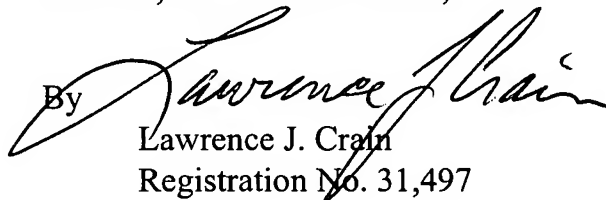
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dicyclopentadiene. However, Swanson is related to concrete coating compositions for use in sewer liners and the like, and involves a complicated formulation procedure performed at high temperatures and relatively long (30 hour) curing times which are incompatible with the present application. One of ordinary skill in the shower/tub retrofitting products art would not look to Swanson for guidance, and as such Swanson is non-analogous art. Also, in view of the allowability of claim 41, from which claim 43 depends, the Section 103 rejection is respectfully traversed.

Applicants submit that in view of the above-identified amendments and remarks, the claims in their present form are patentably distinct over the art of record. Allowance of the rejected claims is respectfully requested. Should the Examiner discover there are remaining issues which may be resolved by a telephone interview, he is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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